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Before the

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of:

Implementation of the Local
Competition Provisions in the
Telecommunications Act of 1996

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CC Docket No. 96-98
FCC 96-182

To: The Commission

REPLY COMMENTS OF A+ NETWORK, INC.

Frederick M. Joyce
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Its Attorneys

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Date: June 3, 1996

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SUMMARY

A+ Network hereby submits its Reply Comments concerning the FCC's proposed adoption of number portability requirements, an issue apparently addressed by only one commenter in this proceeding. A+ urges the Commission not to adopt number portability requirements with regard to paging companies at this time.

Due to the current methods by which numbers are assigned to paging companies, and the manner in which paging terminals have been designed and programmed, requiring that pager numbers be "portable" from one carrier to another would require paging operators to make substantial changes to their systems. The costs inherent in such a process would be enormous. A+ therefore requests that number portability requirements not be imposed upon paging operators, unless and until a fair, equitable and "competitively neutral" method of apportioning those costs is adopted.

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REPLY COMMENTS OF A+ NETWORK, INC.

A+ Network, Inc. ("A+"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, hereby submits its Reply Comments in response to the Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding and the Comments submitted therein.¹

I. Statement of Interest

A+ Network, a publicly owned and traded paging company formed through the merger of A+ Communications and Network USA (NASDAQ symbol "ACOM"), is one of the largest paging carriers in the United States. A+ has created a unique private carrier paging ("PCP") system, by successfully "networking" together hundreds of small, local PCP operators on a single, shared use PCP channel, to build a seamless nationwide paging operation. Additionally, A+ operates an exclusive 929 MHZ regional PCP system, and is the licensee of numerous Part 22 radio common carrier ("RCC") paging stations

¹ FCC 96-182 (released April 19, 1996)

As a carrier whose business will be impacted by the proposals in the NPRM, A+ has standing as a party in interest to file these Reply Comments. Additionally, because of its long history as a paging operator, that has grown from a small, closely-held PCP operator to a large, publicly company providing nationwide network coverage, A+ is amply qualified to assist the Commission in this proceeding.

II. Summary of the Relevant Portions of the NPRM and Comments.

In the NPRM, the Commission began the implementation process for sections 251, 252 and 253 of the 1996 "Telecom Act."² The statutory language of these provisions authorizes the FCC to utilize its rule making power to implement the provisions of Section 251.

The FCC will be authorized to regulate incumbent LECs in such a manner as to enforce the Telecom Act's provisions regarding interconnection, collocation, access to unbundled network elements, resale obligations, good- faith negotiating, dialing parity, prompt technical notifications and assurance of access to rights of way, so that the competitive market conditions envisioned by the 1996 Telecom Act are achieved.

Among the questions raised by the NPRM is whether, and to what extent, Commercial Mobile Radio Service ("CMRS") providers should be treated as LECs for purposes of Section 251(b). See NPRM ¶ 195. Such an approach would make CMRS operators subject to the obligations, imposed by the Telecom Act upon the LECs, concerning interconnection, resale, dialing parity and number portability, etc. With regard to number portability, the Commission did not ask for comments on specific proposed rules, stating that it would address number

² The Telecommunications Act of 1996 Pub. L. No. 104-104, 110 Stat. 56 (1996)

portability issues in its outstanding rulemaking proceeding in CC Docket No. 95-116. See id. at ¶ 199. The Commission indicated its intention to "take expeditious action" on number portability issues.

Insofar as A+ has been able to determine, the only commenter to address the number portability issue was BellSouth. See Comments of BellSouth Corporation, et al. (May 20, 1996) ("BellSouth Comments"). BellSouth states that the only issues left to address are "the most expedient way to establish number portability" and to "establish a competitively neutral framework in which the costs of number portability are borne by all telecommunications carriers." See BellSouth Comments at 6-7. BellSouth suggests that the Commission establish, through an industry task force, broad guidelines for national number portability, and "immediately" establish a competitively neutral cost recovery system. Id. at 7.

III. The Number Portability Requirements Would Place Excessive Burdens and Costs on CMRS Providers.

A+ agrees with the implication in BellSouth's Comments that, with regard to number portability, the question of how costs are apportioned among carriers is critical. See BellSouth Comments at 7. A+ further agrees with BellSouth that no interim number portability requirements should be adopted in this proceeding. Id. at 8. It does not appear, however, that BellSouth in its Comments or the Commission in its NPRM has considered the fact that there are costs attendant to number portability that will be imposed upon carriers other than the LECs. A+ urges the Commission to carefully consider the costs that number portability requirements will impose upon all classes of carriers, before adopting any such rules in this proceeding.

Although the Commission acknowledged that the Telecom Act requires the costs of

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number portability to "be borne by all telecommunications carriers on a competitively neutral basis," see NPRM at ¶ 198, quoting Telecom Act, Pub. L. No. 104-104, 110 Stat. 56, § 251(e)(2); A+ is deeply concerned that in attempting to establish nationwide number portability, paging operators will be required to bear excessive direct and indirect costs. A+ therefore urges the Commission to consider whether number portability is technically or economically feasible with regard to paging services. A+ respectfully submits that at this time it is not.

First of all, telephone numbers are currently assigned to paging companies in one hundred number blocks; a paging company's technical equipment is designed based on this system. A "stray" number imported by a customer changing service providers would not be accepted by the paging operator's terminal; the terminal will not accept the addition of numbers in anything smaller than the standard 100-number block. The paging operator will thus have to accept (and be billed for) the entire 100-number block which includes the number being imported, even though 99 of those numbers will not be of use to the paging operator (and indeed, are probably being used by the subscriber's previous service provider).

Secondly, paging terminals are currently programmed to recognize seven-digit numbers, not ten-digit numbers. Consequently, if a customer with the number (202) 123-4567 wishes to keep that number when changing carriers, but the new carrier has an existing customer with the number (904) 123-4567, the carrier's terminal will not recognize the three-digit area code, and will "see" these numbers as the same number.

In short, if the number portability guidelines eventually adopted apply to paging, paging operators will need to entirely re-design their systems, perhaps even replacing their current terminal equipment. The costs that such a requirement would impose upon paging operators

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would be enormous, even for a company of A+'s size and resources; smaller paging companies would likely find those costs impossible to bear. The NPRM recognized the Congressional mandate of Section 251(e)(2) requires the Commission to "ensure that no single category of telecommunications carriers will be disadvantaged competitively by bearing all or substantially all of the costs of number portability." See NPRM at ¶ 198. Imposing number portability requirements that would force paging carriers to undertake the substantial system modifications and costs described above, would clearly "competitively disadvantage" paging carriers against other telecommunications providers. Unless and until a system of cost recovery is adopted that will compensate paging carriers for the costs of re-designing their systems to accept "imported" numbers, no portability requirements should be imposed upon the numbers assigned to paging carriers.

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Conclusion

For all the foregoing reasons, A+ respectfully requests that the Commission refrain from imposing number portability requirements on paging operators at this time. At a minimum, the Commission should establish some mechanism whereby the costs that number portability would impose upon paging operators will be borne by "all telecommunications providers" on an equitable and "competitively neutral basis "

Respectfully submitted,

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By: 
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CERTIFICATE OF SERVICE

I, Gerie Miller, a secretary in the law firm of Joyce & Jacobs, Attorneys at Law, LLP, do hereby certify that on this 6th day of June, 1996, copies of the foregoing Reply Comments of A+ Network, Inc. were mailed, postage prepaid to the following:

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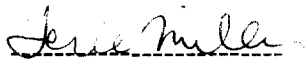
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A handwritten signature in cursive script, reading "Gerie Miller", written over a horizontal dashed line.

Gerie Miller

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